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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,615	03/29/2001	Ervin Dennis Walter	1517.002	4103
23598 7590 11/20/2007 BOYLE FREDRICKSON S.C. 840 North Plankinton Avenue MILWAUKEE, WI 53203			EXAMINER GILLIGAN, CHRISTOPHER L	
			ART UNIT	PAPER NUMBER
			3626	
			NOTIFICATION DATE	DELIVERY MODE
			11/20/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@boylefred.com

Office Action Summary

Application No.

09/821,615

Applicant(s)

WALTER ET AL.

Examiner

Luke Gilligan

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 71-82 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 71-82 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/4/07 has been entered.

Response to Amendment

2. In the amendment filed 9/4/07, the following has occurred: claims 55-70 have been canceled and claims 71-82 have been added. Now, claims 71-82 are presented for examination.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 71-76 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

5. Claim 71 recites a system that includes a database, a web page, and a web portal. These are all examples of descriptive material which have not been claimed as being tangibly embodied on any computer readable medium. Therefore, claim 72 is directed to mere descriptive material and, accordingly, is directed to non-statutory subject matter. See MPEP 2106.

6. Claims 72-76 fail to cure the deficiencies of claim 72 and, as such, are rejected for the same reasons.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 71-82 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. Claim 71 recites a Web portal that operates in "an anonymous mode" and "a registered mode." It is unclear how the Web portal can operate in both of these modes since they require different levels of patient identification. It is also unclear how the term "the patient can access..." modifies the scope of the claim (i.e. is accessing by the patient a function carried out through the Web portal or is this merely an intended use of the Web portal). Finally, it is unclear what level of identification is required for the patient to be "fully identified" or "not fully identified."

10. Claim 77 recites substantially similar limitations to claim 71 and, as such is rejected for similar reasons.

11. Claims 72-76 and 77-81 are rejected based upon their dependency on claims 71 and 77.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 71-82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hacker, U.S. Patent No. 6,988,075 in view of Ilse et al., U.S. Patent No. 6,757,898.

14. As per claim 71, Hacker teaches a computer system allowing data to be added to a clinical medical record system comprising: a clinical medical record database holding clinical information created by and accessible to healthcare providers (see column 7, lines 22-25); a personal health web page (see column 8, lines 57-59); a Web portal accepting medical data and operating in a registered mode in which the patient can access the data of the clinical medical record when the patient has registered and is thus fully identified (see column 8, lines 46-57).

15. Hacker does not explicitly teach accepting patient-sourced medical data and the Web portal operating in an anonymous mode in which the patient can access the patient-sourced medical data when the patient is not fully identified. Ilse teaches a system that accepts patient-sourced medical data through a Web portal that operates in an anonymous mode in which the patient can access the patient-sourced medical data when the patient is not fully identified (see column 13, lines 20-48). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine this functionality with the system of Hacker. One of ordinary skill in the art would have been motivated to combine this functionality for the purpose of providing the patient with greater access to relevant information including patient-sourced information (see column 4, lines 24-26 of Ilse).

16. As per claim 72, Hacker in view of Ilse teaches the system of claim 71 as described above. Hacker further teaches the registered mode allows integrated access of data of the clinical medical record by the patient without re-entry of information by the patient (see column 8, lines 46-59).

17. As per claim 73, Hacker in view of Ilse teaches the system of claim 71 as described above. Hacker further teaches the Web portal in the registered mode allows healthcare professionals to view selected data flagged by the patient (see column 8, lines 4-7).

18. As per claim 74, Hacker in view of Ilse teaches the system of claim 71 as described above. Hacker further teaches the Web portal allows the patient to undertake electronic communication with healthcare professionals (see column 10, lines 4-33).

19. As per claim 75, Hacker in view of Ilse teaches the system of claim 71 as described above. Hacker does not explicitly teach the patient provides a user name and identifying information that is anonymous in nature in the anonymous mode. Ilse further teaches the patient provides a user name and identifying information that is anonymous in nature in the anonymous mode (see column 13, lines 49-54). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate such functionality into the system of Hacker for the reasons given above with respect to claim 71.

20. As per claim 76, Hacker in view of Ilse teaches the system of claim 71 as described above. Although Hacker teaches a registered mode, Hacker does not explicitly teach the Web portal allowing patients to make appointments with healthcare professionals. Ilse further teaches the Web portal allows patients to make appointments with healthcare professionals (see column 13, lines 20-22). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate such functionality into the system of Hacker for the reasons given above with respect to claim 71.

21. Claims 77-82 recite substantially similar method limitations to system claims 71-76 and, as such, are rejected for similar reasons as given above.


Conclusion

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luke Gilligan whose telephone number is (571) 272-6770. The examiner can normally be reached on Monday-Friday 8am-5:30pm.

23. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

24. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

11/12/07


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